

MONTANA ADMINISTRATIVE REGISTER

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MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 9

The Montana Administrative Register (MAR or Register), a twice-monthly publication, has three sections. The Proposal Notice Section contains state agencies' proposed new, amended, or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted. The Rule Adoption Section contains final rule notices which show any changes made since the proposal stage. All rule actions are effective the day after publication of the adoption notice unless otherwise specified in the final notice. The Interpretation Section contains the Attorney General's opinions and state declaratory rulings. Special notices and tables are found at the end of each Register.

Inquiries regarding the rulemaking process, including material found in the Montana Administrative Register and the Administrative Rules of Montana, may be made by calling the Secretary of State's Office, Administrative Rules Services, at (406) 438-6122.

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BEFORE THE DEPARTMENT OF FISH, WILDLIFE AND PARKS
OF THE STATE OF MONTANA

In the matter of the repeal of an) NOTICE OF REPEAL OF
emergency rule closing the Bjornberg) EMERGENCY RULE
Bridge Fishing Access Site in Phillips)
County)

TO: All Concerned Persons

1. On April 13, 2023, the Department of Fish, Wildlife and Parks (department) adopted an emergency rule closing the Bjornberg Bridge Fishing Access Site, in Phillips County, to all public occupation and recreation in Notice No. 12-596, published at page 405 of the 2023 Montana Administrative Register, Issue Number 8. The emergency rule was adopted because the Milk River had experienced extensive flooding. The Bjornberg Bridge Fishing Access Site is located along the Milk River and had also experienced flooding which created dangerous conditions.

2. The rule was to be in place until the department determined that the Bjornberg Bridge Fishing Access Site was again safe for occupation and recreation. Given that the Milk River has receded and that the Bjornberg Bridge Fishing Access Site no longer poses a danger to the public, the department is repealing NEW RULE I BJORNBERG BRIDGE FISHING ACCESS SITE EMERGENCY CLOSURE.

3. The repeal of NEW RULE I is effective April 28, 2023, when this rule notice is filed with the Secretary of State.

4. The repeal of the emergency rule will be sent as a press release to newspapers throughout the state and posted on the department's website at fwp.mt.gov. Moreover, signs informing the public of the closure will be removed at access points.

5. The special notice requirement of 2-4-303, MCA, has been met. All committee members of the Environmental Quality Council, with addresses provided on the Montana Legislature's website (leg.mt.gov), were contacted by email on April 28, 2023. Lastly, the emergency rule repeal notice will be sent to interested parties and published in Issue Number 9 of the 2023 Montana Administrative Register.

/s/ Dustin Temple
Dustin Temple
Acting Director
Department of Fish, Wildlife and Parks

/s/ Alexander Scolavino
Alexander Scolavino
Rule Reviewer

Certified to the Secretary of State April 28, 2023.

BEFORE THE DEPARTMENT OF FISH, WILDLIFE AND PARKS
OF THE STATE OF MONTANA

In the matter of the repeal of an) NOTICE OF REPEAL OF
emergency rule closing the Alkali) EMERGENCY RULE
Creek Fishing Access Site in Phillips)
County)

TO: All Concerned Persons

1. On April 13, 2023, the Department of Fish, Wildlife and Parks (department) adopted an emergency rule closing the Alkali Creek Fishing Access Site in Phillips County to all public occupation and recreation in Notice No. 12-597, published at page 407 of the 2023 Montana Administrative Register, Issue Number 8. The emergency rule was adopted because the Milk River had experienced extensive flooding. The Alkali Creek Fishing Access Site is located along the Milk River and had also experienced flooding which created dangerous conditions.

2. The rule was to be in place until the department determined that the Alkali Creek Fishing Access Site was again safe for occupation and recreation. Given that the Milk River has receded and that the Alkali Creek Fishing Access Site no longer poses a danger to the public, the department is repealing NEW RULE I ALKALI CREEK FISHING ACCESS SITE EMERGENCY CLOSURE.

3. The repeal of NEW RULE I is effective April 21, 2023, when this rule notice is filed with the Secretary of State.

4. The repeal of the emergency rule will be sent as a press release to newspapers throughout the state and posted on the department's website at fwp.mt.gov. Moreover, signs informing the public of the closure will be removed at access points.

5. The special notice requirement of 2-4-303, MCA have been met. All committee members of the Environmental Quality Council, with addresses provided on the Montana Legislature's website (leg.mt.gov), were contacted by email on April 21, 2023. Lastly, the emergency rule repeal notice will be sent to interested parties and published in Issue Number 9 of the 2023 Montana Administrative Register.

/s/ Dustin Temple
Dustin Temple
Acting Director
Department of Fish, Wildlife and Parks

/s/ Alexander Scolavino
Alexander Scolavino
Rule Reviewer

Certified to the Secretary of State April 21, 2023.

BEFORE THE DEPARTMENT OF FISH, WILDLIFE AND PARKS
OF THE STATE OF MONTANA

In the matter of the repeal of an) NOTICE OF REPEAL OF
emergency rule closing the Cree) EMERGENCY RULE
Crossing Wildlife Management Area)
on the Milk River in Phillips County)

TO: All Concerned Persons

1. On April 13, 2023, the Department of Fish, Wildlife and Parks (department) adopted an emergency rule closing the Cree Crossing Wildlife Management Area, in Phillips County, to all public occupation and recreation in Notice No. 12-598, published at page 409 of the 2023 Montana Administrative Register, Issue Number 8. The emergency rule was adopted because the Milk River had experienced extensive flooding. The Cree Crossing Wildlife Management Area is located along the Milk River and had also experienced flooding which created dangerous conditions.

2. The rule was to be in place until the department determined that the Cree Crossing Wildlife Management Area was again safe for occupation and recreation. Given that the Milk River has receded and that the Cree Crossing Wildlife Management Area no longer poses a danger to the public, the department is repealing NEW RULE I CREE CROSSING WILDLIFE MANAGEMENT AREA EMERGENCY CLOSURE.

3. The repeal of NEW RULE I is effective April 28, 2023, when this rule notice is filed with the Secretary of State.

4. The repeal of the emergency rule will be sent as a press release to newspapers throughout the state and posted on the department's website at fwp.mt.gov. Moreover, signs informing the public of the closure will be removed at access points.

5. The special notice requirement of 2-4-303, MCA, has been met. All committee members of the Environmental Quality Council, with addresses provided on the Montana Legislature's website (leg.mt.gov), were contacted by email on April 28, 2023. Lastly, the emergency rule repeal notice will be sent to interested parties and published in Issue Number 9 of the 2023 Montana Administrative Register.

/s/ Dustin Temple
Dustin Temple
Acting Director
Department of Fish, Wildlife and Parks

/s/ Alexander Scolavino
Alexander Scolavino
Rule Reviewer

Certified to the Secretary of State April 28, 2023.

BEFORE THE DEPARTMENT OF LIVESTOCK
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 32.2.405 pertaining to)
Department of Livestock Meat)
Inspection and Milk and Egg Bureau
Fees

TO: All Concerned Persons

1. On March 24, 2023, the Department of Livestock published MAR Notice No. 32-23-336 pertaining to the proposed amendment of the above-stated rule at page 226 of the 2023 Montana Administrative Register, Issue Number 6.
2. The department has amended the above-stated rule as proposed.
3. No comments or testimony were received.

/s/ Darcy Alm
Darcy Alm
Rule Reviewer

/s/ Michael S. Honeycutt
Michael S. Honeycutt
Executive Director
Department of Livestock

Certified to the Secretary of State May 2, 2023.

NOTICE OF FUNCTION OF ADMINISTRATIVE RULE REVIEW COMMITTEES

Interim Committees and the Environmental Quality Council

Administrative rule review is a function of interim committees and the Environmental Quality Council (EQC). These interim committees and the EQC have administrative rule review, program evaluation, and monitoring functions for the following executive branch agencies and the entities attached to agencies for administrative purposes.

Economic Affairs Interim Committee

- Department of Agriculture
- Department of Commerce
- Department of Labor and Industry
- Department of Livestock
- Office of the State Auditor (Commissioner of Securities and Insurance)
- Office of Economic Development
- Division of Banking and Financial Institutions
- Alcoholic Beverage Control Division
- Cannabis Control Division

Education Interim Committee

- State Board of Education
- Board of Public Education
- Board of Regents of Higher Education
- Office of Public Instruction
- Montana Historical Society
- Montana State Library

Children, Families, Health, and Human Services Interim Committee

- Department of Public Health and Human Services

Law and Justice Interim Committee

- Department of Corrections
- Department of Justice

Energy and Telecommunications Interim Committee

- Department of Public Service Regulation

Revenue Interim Committee

- Department of Revenue
- Montana Tax Appeal Board

State Administration and Veterans' Affairs Interim Committee

- Department of Administration
- Montana Public Employee Retirement Administration
- Board of Investments
- Department of Military Affairs
- Office of the Secretary of State
- Office of the Commissioner of Political Practices

Transportation Interim Committee

- Department of Transportation
- Motor Vehicle Division (Department of Justice)

Environmental Quality Council

- Department of Environmental Quality
- Department of Fish, Wildlife and Parks
- Department of Natural Resources and Conservation

Water Policy Interim Committee (where the primary concern is the quality or quantity of water)

- Department of Environmental Quality
- Department of Fish, Wildlife and Parks
- Department of Natural Resources and Conservation

These interim committees and the EQC have the authority to make recommendations to an agency regarding the adoption, amendment, or repeal of a rule or to request that the agency prepare a statement of the estimated economic impact of a proposal. They also may poll the members of the Legislature to determine if a proposed rule is consistent with the intent of the Legislature or, during a legislative session, introduce a bill repealing a rule, or directing an agency to adopt or amend a rule, or a Joint Resolution recommending that an agency adopt, amend, or repeal a rule.

The interim committees and the EQC welcome comments and invite members of the public to appear before them or to send written statements in order to bring to their attention any difficulties with the existing or proposed rules. The mailing address is P.O. Box 201706, Helena, MT 59620-1706.

HOW TO USE THE ADMINISTRATIVE RULES OF MONTANA AND THE MONTANA ADMINISTRATIVE REGISTER

Definitions:

Administrative Rules of Montana (ARM) is a looseleaf compilation by department of all rules of state departments and attached boards presently in effect, except rules adopted up to three months previously.

Montana Administrative Register (MAR or Register) is an online publication, issued twice-monthly, containing notices of rules proposed by agencies, notices of rules adopted by agencies, and interpretations of statutes and rules by the Attorney General (Attorney General's Opinions) and agencies (Declaratory Rulings) issued since publication of the preceding Register.

Use of the Administrative Rules of Montana (ARM):

Known
Subject

1. Consult ARM Topical Index.
Update the rule by checking recent rulemaking and the table of contents in the last Montana Administrative Register issued.

Statute

2. Go to cross reference table at end of each number and title which lists MCA section numbers and department corresponding ARM rule numbers.

RECENT RULEMAKING BY AGENCY

The Administrative Rules of Montana (ARM) is a compilation of existing permanent rules of those executive agencies that have been designated by the Montana Administrative Procedure Act for inclusion in the ARM. The ARM is updated through December 31, 2022. This table includes notices in which those rules adopted during the period November 18, 2022, through April 28, 2023, occurred and any proposed rule action that was pending during the past 6-month period. (A notice of adoption must be published within six months of the published notice of the proposed rule.) This table does not include the contents of this issue of the Montana Administrative Register (MAR or Register).

To be current on proposed and adopted rulemaking, it is necessary to check the ARM updated through December 31, 2022, this table, and the table of contents of this issue of the Register.

This table indicates the department name, title number, notice numbers in ascending order, the subject matter of the notice, and the page number(s) at which the notice is published in the 2022 or 2023 Montana Administrative Register.

To aid the user, this table includes rulemaking actions of such entities as boards and commissions listed separately under their appropriate title number.

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(Board of Investments)

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